



PO Box 854, Litchfield, CT 06759 Tel- (860) 567-3591 Fax- (860) 496-1830

Insurance and Real Estate Committee

Testimony strongly supporting

RB 415, AN ACT CONCERNING STEP THERAPY, ADVERSE DETERMINATION AND UTILIZATION REVIEWS

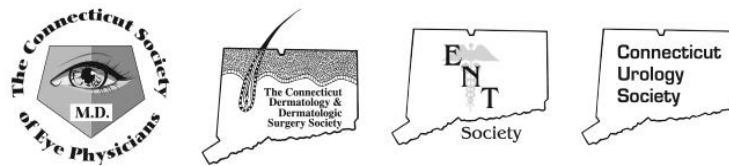
March 17, 2022

Good Morning Senator Lesser, Representative Wood and other distinguished members of the Insurance and Real Estate Committee. My name is Todd Falcone, M.D. and I am a board certified otolaryngologist practicing in Farmington, CT and I am an officer in the CT ENT Society. I am here on behalf of the over 800 physicians and physicians in training in the medical specialties of Dermatology, Ophthalmology, Otolaryngology and Urology to ask this committee to support RB 415, **AN ACT CONCERNING STEP THERAPY, ADVERSE DETERMINATION AND UTILIZATION REVIEWS**, which addresses a problem that is crippling the ability of physicians to care for patients. We appreciate the foresight and leadership shown by this committee in raising these important issues. We especially thank Senator Looney and Dina Berlyn, Senator Looney's legal aide who has provided many years of support, research and perseverance on this legislation before you.

For decades, physicians have been deeply concerned over trends in medicine that prioritize cost containment over quality of care and outcomes. It is especially distressing that the decision-making power is so often in the hands of the insurance companies. Physicians spend years in training and work to build relationships with their patients, helping to guide them through the maze of medical care. Health Care decisions can be some of the most difficult decisions that patients and their family ever face. After arriving at a decision, with the guidance of a trusted provider, the patient and their family typically want to move forward with the plan. Unfortunately, anonymous reviewers, with hidden algorithms and an eye on the bottom line, can overturn a carefully crafted plan. Decisions made by insurers which deny the medical necessity of certain medications, procedures and therapies are called "adverse determinations". They can cause delays in needed care, and doubts, as physicians are left to argue the medical necessity of the choice, often to a reviewer unfamiliar with the specialty or finer points of current management. The same holds true for required "step therapies" that require patient to first fail other therapies, many of which were already considered and rejected by the physician and the patient. This can result in delays in patient improvement and ineffective treatment, placing the patient at risk and in harm's way.

We have testified dozens of times before this Committee, over the course of many years, on the draconian nature of adverse determinations, prior authorizations, medical necessity and extensive utilization reviews. We have provided testimony documenting how many providers are required to submit hundreds of charts for utilization reviews, even though they have not been labeled an "outlier" – someone whose practice patterns differ from the norm. This is a tremendous burden on the physician and their staff.

The truth is that when aggressively pursued by medical practices, these adverse determinations and denials are often overturned and decided in favor of the original recommendation and choice made by the physician.



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But the process creates an administrative burden that grows more onerous year after year—more denials and adverse determinations occur each year, and the mechanisms to contact the insurance companies become more and more difficult and time consuming. Valuable resources and the precious time of physicians and staff are consumed with endless phone calls, forms, and appeals, taking time away from providing patient care. It sometimes seems that the goal is simply to delay the desired treatment until there is no other reasonable choice; or to hope that some providers and patients will simply give up and accept the insurer's decision. It must be noted that in addition to the increased administrative burden, these challenges also strain the physician – patient relationship, certainly one of the most personal relationships that exists outside the family. In the end, these are simply cost saving measures. It is telling that the amount of money spent on patient care, compared to the monies taken in by an insurer are referred to as the “Medical Loss Ratio”.

We are particularly pleased that this proposed legislation stipulates **“a rebuttable presumption that each health care service under an adverse determination review is ‘medically necessary’”**. This is a dramatic change in the current approach, where too often the burden of proof is placed on the physician to prove that the planned treatment is medically necessary. This amendment appropriately places the burden on the insurer to prove that the therapy determined by the patient and treating physician is not necessary. There is no one more qualified than the patient's trusted physician to determine appropriate and necessary medical care. The physician is in the best position to plan, with the patient and their family, the way forward when a serious medical issue threatens their lives or well-being.

We also applaud the recognition that a **“clinical peer”** needs to be exactly that: a physician in the same specialty who is actively practicing similar care, or is at least board certified in the same specialty. It also allows for a doctorate level provider to review appropriate health care providers utilization. This removes one of the more frustrating aspects of utilization review: that the reviewer is less well-versed in the nuances of the care being considered than the physician whose decision is under review.

We have diligently notified members of this committee and leaders in the Connecticut General Assembly of the many injustices foisted upon physicians by insurers over many years, but this body has not always succeeded in getting supportive legislation passed. We hope that 2022, with all the difficulties physicians have faced in caring for our patients during the COVID-19 Pandemic, will be different, and we will begin to put medical decision making where it should be - in the hands of physicians and patients.

Please support RB415 because it will allow physicians to make medical decisions that improve the quality of life for these individuals and help achieve optimal outcomes, and will also improve access to appropriate prescription medications.

Thank you for your consideration - together we can make a difference for the citizens of Connecticut.